

ETHICAL ISSUES IN ELECTRONIC CASE FILING
U.S. DISTRICT COURT- EASTERN DISTRICT OF MISSOURI
OCTOBER 3, 2003
3:00- 4:30 P.M.

PANEL

Professor Peter Joy, Washington University School of Law (**Moderator**)
Honorable Catherine Perry, U.S. District Judge
Professor Carol Needham, Saint Louis University School of Law
Paul Venker, Williams, Venker & Sanders
David Harlan, Senniger, Powers, Leavitt & Roedel

TOPICS FOR DISCUSSION:

I. New Issues of Privacy and Confidentiality in an Electronic Age (3:00 - 3:30 pm)

- A. Privacy and Access to Electronic Court Records - implications for client confidentiality under Missouri Rule of Professional Conduct 4-1.6.
- B. E-Government Act of 2002 - Judicial Conference redaction policy.
- C. Transmitting Electronic Documents Safely and Securely - duty to preserve client confidentiality under Missouri Rule of Professional Conduct 4-1.6.
- D. Inadvertent Electronic Filings - ethical problems, liabilities and remedies, disclosure of confidential information.
- E. Does the client need to consent to e-mail transmission of confidential attorney-client information? What does the client need to know about risks?

II. Ethical Implications of Electronic Case Filing Procedures (3:30 - 4:00 pm)

- A. Signature Issues (Client and Attorney) - Missouri Rules of Professional Conduct 4-5.1, 5.2, 5.3 ; Delegation with Great Care.
- B. Unauthorized Practice of Law - Missouri Rule of Professional Conduct 4-5.5 - delegation of document preparation to support staff who can also file electronically with the court.
- C. Trust Fund Fee Payments using Credit Cards- Missouri Rule of Professional Conduct 4-1.15
- D. Service of Papers and Pleadings - Missouri Rule of Professional Conduct 4-4.2 - a represented client can be added to court's e-mail notification list, thus allowing opposing counsel to communicate directly with represented party - what to do?
- E. Obligation of Parties to Provide Exhibits That Cannot be Filed Electronically.
- F. Client's Right to Lawyer's Electronic Files - Missouri Rules of Professional Conduct 4-1.15, 4-1.16 cmt. 9; Who owns the computer files on which client materials are stored?

III. Long Term Implications for Electronic Law Practice and Rules of Professional Conduct. (4:00 - 4:15 pm)

IV. Review of CM/ECF Implementation Plan: Lingerin g Issues, Policy Decisions, Operational Details and Questions from the Bar. (4:15 - 4:30 pm)